

**ASSEMBLY BILL**

**No. 324**

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**Introduced by Assembly Member Beall**  
(Principal coauthor: Senator Liu)

February 18, 2009

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An act to amend Sections 9002, 9014, 9100, 9102, 9400, and 9545 of, and to add Section 9009 to, the Welfare and Institutions Code, relating to aging.

LEGISLATIVE COUNSEL'S DIGEST

AB 324, as introduced, Beall. Aging: Elder Economic Security Standard Index.

Existing law, the Mello-Granlund Older Californians Act, creates the California Department of Aging, with prescribed duties.

This bill would require the department, beginning in 2010, to annually update the Elder Economic Security Standard Index (Elder Index), as defined, for each county. This bill would require the department to use the Elder Index to make prescribed calculations and analyses relating to elders living below the Elder Index's poverty threshold. This bill would also require the department to report Elder Index data to each service area included in the state plan.

Existing law requires each area agency on aging to create a plan that considers available data and population trends, assesses the need for services, identifies sources of funding for services, and develops and implements a plan for the delivery of services based on the need.

This bill would delete the requirements that the plan consider available data and population trends, but would require that the plan utilize the Elder Index, specify the cost of meeting basic needs for elders in each

service area, and identify which elders are living at or below the Elder Index.

Under existing law, the department allocates funds to area agencies on aging to implement various programs, with allocations to be made in accordance with a prescribed funding formula. Under existing law, the Linkages Program, a community-based services program, provides care and case management services to frail elderly and functionally impaired adults to help prevent or delay placement in nursing facilities.

This bill would declare it to be the policy of the state that specified state needs-based programs for elders use the Elder Index to establish income eligibility standards.

This bill would also require area agencies on aging to annually update the intake form for the Linkages Program to include the most current Elder Index, in order to identify elders in economic need and refer these elders to other appropriate resources and programs.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known, and may be cited, as
- 2 the Elder Economic Dignity Act of 2009.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) The United States Census Bureau projects that the population
- 5 of people 65 years of age and older is expected to more than double
- 6 from the year 2000 to the year 2030, both nationally and in
- 7 California. People 65 years of age and older comprised 10.6 percent
- 8 of California's population in 2000 but will be 11.5 percent of the
- 9 state's population by 2010, and 17.8 percent in 2030.
- 10 (b) The United States Department of Health and Human Services
- 11 uses the Federal Poverty Guidelines as a benchmark to determine
- 12 eligibility for public assistance programs, and the Federal Poverty
- 13 Guidelines are derived from the United States Census Bureau's
- 14 Federal Poverty Thresholds, which are used to determine poverty
- 15 rates. In 2008, the Federal Poverty Guidelines were ten thousand
- 16 four hundred dollars (\$10,400) for a one-person household and
- 17 fourteen thousand dollars (\$14,000) for a two-person household.
- 18 In 2007, the official poverty rate for the total population was 12.5
- 19 percent, according to the most recent calculation by the United
- 20 States Census Bureau.

1 (c) The Federal Poverty Guidelines are an inadequate and  
2 antiquated measurement tool that uses a nearly 50-year-old  
3 methodology. The method is based solely on one expense: food.  
4 It also inaccurately assumes that households today still spend  
5 one-third of their income on food when in fact the United States  
6 Department of Agriculture states the number is actually one-tenth,  
7 or 10 percent. Instead of food, the United States Bureau of Labor  
8 Statistics, Consumer Expenditure Survey indicates that households  
9 spend closer to one-third of their budget on housing. The Federal  
10 Poverty Thresholds exclude the actual costs of housing, health  
11 care, transportation, and other essential services. Although updated  
12 annually using the Consumer Price Index, the Federal Poverty  
13 Thresholds are calculated in the exact same way today, in 2009,  
14 as they were in 1962. According to a Senior Fellow at the  
15 Brookings Institute, no other economic statistic in use today relies  
16 on these antiquated methods. Moreover, this “one-size-fits-all”  
17 measurement tool does not take into account factors such as the  
18 significant variation in the cost of living across the states, counties,  
19 and cities, or the ages of household members.

20 (d) Despite these significant shortcomings in the underlying  
21 data and methodology, the Federal Poverty Guidelines continue  
22 to be used to determine eligibility for 82 different state and federal  
23 programs, and are used by state and federal policymakers as a  
24 benchmark to determine funding allocations to local communities,  
25 and to justify cuts to public benefits. Without a precise poverty  
26 measurement tool, policy and fiscal decisions intended to tackle  
27 poverty will continue to be imprecise.

28 (e) Many of California’s elders often do not receive any public  
29 assistance because their incomes are just above the official Federal  
30 Poverty Guidelines, and are therefore forced to make untenable  
31 choices among basic needs, such as choices between eating three  
32 meals a day, foregoing medications, or paying for shelter. Most  
33 of these elders have worked hard all of their lives, yet still struggle  
34 to pay their bills and live with dignity and economic security in  
35 their later years. Although often described as “falling through the  
36 cracks,” this group is neither small nor marginal, as that phrase  
37 suggests, but rather, it is a substantial proportion of California’s  
38 aging community.

39 (f) Using the antiquated Federal Poverty Threshold, the United  
40 States Census Bureau reports that, for 2006, only 7.9 percent

(295,000) of California's elders live below the official poverty level. This is a significant underestimate of the number of Californians 65 years of age and older who do not have enough to adequately cover their most basic needs. A recent study conducted by the University of California, Los Angeles, in collaboration with the Insight Center for Community Economic Development, found that approximately 47 percent (1.76 million) of California's elders 65 years of age and older do not have enough income to adequately cover their most basic needs, including food, shelter, medicine, and transportation, the study documents that approximately 40 percent (1.46 million) of California's elders "fall through the cracks" because they have incomes above the official Federal Poverty Thresholds but below what they actually need to make ends meet in today's economy.

(g) The Elder Economic Security Standard Index (Elder Index) is a more sophisticated and updated 21st century calculation of poverty that provides a more accurate picture of the true economic needs of elders and their families. Calculated by the University of California, Los Angeles, in partnership with the Insight Center for Community Economic Development, Wider Opportunities for Women, and the Gerontology Institute at the University of Massachusetts, Boston, the new Elder Index quantifies the actual costs elders, 65 years of age and older, face in meeting all of their basic needs, including food, shelter, health care, transportation, utilities, and essential household items, in the private market.

(h) The Elder Index is specific to the costs that elders face. It factors in state and local differences in the cost of living, as well as an elder's housing situation and health care needs.

(i) The Elder Index serves as the guiding tool for broad-based planning, evaluation, research, advocacy, and outreach at the national, state, and local levels. By 2012, each county in every state across the nation will have a customized Elder Index. Among the current five pilot states using the Elder Index, the State of Massachusetts is already using it for planning, programming, and increasing the asset limits for Medicaid home- and community-based services from two-thousand dollars (\$2,000) to ten thousand dollars (\$10,000). The Pennsylvania Department of Aging, Illinois Congressional Representative Jan Schakowsky, and former Wisconsin State Assembly Speaker Michael Huebsch have also endorsed the Elder Index in their respective states.

1 (j) A more accurate calculation of the poverty rate among elders  
2 will result in a more targeted distribution of federal funding to  
3 states to support elders, more effective programs, and strategic  
4 planning.

5 SEC. 3. Section 9002 of the Welfare and Institutions Code is  
6 amended to read:

7 9002. The Legislature finds and declares all of the following:

8 (a) Programs shall be initiated, promoted, and developed through  
9 all of the following:

- 10 (1) Volunteers and volunteer groups.  
11 (2) Partnership with local governmental agencies.  
12 (3) Coordinated efforts of state agencies.  
13 (4) Coordination and cooperation with federal programs.  
14 (5) Partnership with private health and social service agencies.  
15 (6) Participation by older individuals in the planning and  
16 operation of all programs and services that may affect them.

17 (b) It shall be the policy of this state to give attention to the  
18 unique concerns of our most frail and vulnerable older individuals.

19 (c) Recognizing the diversity in geography, economy, culture,  
20 and lifestyles in California and the diversity of local senior citizen  
21 networks, it shall be the policy of this state to encourage and  
22 emphasize local control to achieve the most effective blend of state  
23 and local authority.

24 (d) In recognition of the many governmental programs serving  
25 seniors, and as specified in paragraph (2) of subdivision (c) of  
26 Section 9102, the California Department of Aging should  
27 coordinate, as existing resources permit, with other state  
28 departments in doing all of the following:

29 (1) Promote clear and simplified access to information assistance  
30 and services arrangements.

31 (2) Ensure that older individuals retain the right of free choice  
32 in planning and managing their lives.

33 (3) Ensure that health and social services are available that do  
34 all of the following:

35 (A) Allow older individuals to live independently at home or  
36 with others.

37 (B) Provide for advocacy for expansion of existing programs  
38 that prevent or minimize illness or social isolation, and allow  
39 individuals to maximize their dignity and choice of living.

1 (C) Provide for protection of older individuals from physical  
2 and mental abuse, neglect, and fraudulent practices.

3 (4) Foster both preventive and primary health care, including  
4 mental and physical health care, to keep older individuals active  
5 and contributing members of society.

6 (5) Encourage public and private development of suitable  
7 housing.

8 (6) Develop and seek support for plans to ensure access to  
9 information, counseling, and screening.

10 (7) Encourage public and private development of suitable  
11 housing and recreational opportunities to meet the needs of older  
12 individuals.

13 (8) Encourage development of efficient community services  
14 including access to low-cost transportation services, that provide  
15 a choice in supported living arrangements and social assistance in  
16 a coordinated manner and that are readily available when needed.

17 (9) Encourage and develop meaningful employment  
18 opportunities for older individuals.

19 (10) Encourage the development of barrier-free construction  
20 and the removal of architectural barriers, so that more facilities  
21 are accessible to older individuals.

22 (11) Promote development of programs to educate persons who  
23 work with older individuals in gerontology and geriatrics.

24 (12) Encourage and support intergenerational programming and  
25 participation by community organizations and institutions to  
26 promote better understanding among the generations.

27 (e) The California Department of Aging shall ensure that, to the  
28 extent possible, the services provided for in accordance with this  
29 division shall be coordinated and integrated with services provided  
30 to older individuals by other entities of the state. That integration  
31 may include, but not be limited to, the reconfiguration of state  
32 departments into a coordinated unit that can provide for multiple  
33 services to the same consumers. Services provided under this  
34 division shall be managed, directly or through contract, by local  
35 area agencies on aging or other local systems.

36 (f) *It shall be the policy of the state that new California state*  
37 *needs-based programs, and current California state programs*  
38 *which are later modified to become needs based, shall use the*  
39 *Elder Economic Security Standard Index to establish income*  
40 *eligibility standards.*

1 SEC. 4. Section 9009 is added to the Welfare and Institutions  
2 Code, to read:

3 9009. “Elder Economic Security Standard Index” means an  
4 index that quantifies the costs that elders face in meeting their  
5 basic needs, including, but not limited to, food, shelter, health care,  
6 transportation, utilities, and essential household items, in the private  
7 market. It is derived by applying the existing publicly available  
8 methodology, developed by the Wider Opportunities for Women  
9 and Gerontology Institute, to publicly available data sources on  
10 the costs to live in each county of the state.

11 SEC. 5. Section 9014 of the Welfare and Institutions Code is  
12 amended to read:

13 9014. “Greatest economic need” means the need resulting from  
14 an income level at or below the ~~poverty threshold~~ *thresholds*  
15 established by the ~~Bureau of the Census~~. *Elder Economic Security*  
16 *Standard Index*.

17 SEC. 6. Section 9100 of the Welfare and Institutions Code is  
18 amended to read:

19 9100. (a) There is in the Health and Welfare Agency the  
20 California Department of Aging.

21 (b) The department’s mission shall be to provide leadership to  
22 the area agencies on aging in developing systems of home- and  
23 community-based services that maintain individuals in their own  
24 homes or least restrictive homelike environments.

25 (c) In fulfilling its mission, the department shall develop  
26 minimum standards for service delivery to ensure that its programs  
27 meet consumer needs, operate in a cost-effective manner, and  
28 preserve the independence and dignity of aging Californians. In  
29 accomplishing its mission, the department shall consider available  
30 data and population trends in developing programs and policies,  
31 collaborate with area agencies on aging, the commission, and other  
32 state and local agencies, and consider the views of advocates,  
33 consumers and their families, and service providers. *The*  
34 *department shall also report the Elder Economic Security Standard*  
35 *Index data for each service area in its state plan.*

36 (d) The minimum standards for its programs shall ensure that  
37 the system meets all of the following requirements:

38 (1) Have the flexibility to respond to the needs of individuals,  
39 their families and caregivers.

40 (2) Provide for consumer choice and self-determination.

1 (3) Enable consumers to be involved in designing and  
2 monitoring the system.

3 (4) Be equally accessible to diverse populations regardless of  
4 income, consistent with existing state and federal law.

5 (5) Have consistent statewide policy, with local control and  
6 implementation.

7 (6) Include preventive services and home and community based  
8 support.

9 (7) Have cost containment and fiscal incentives consistent with  
10 the delivery of appropriate services at the appropriate level.

11 SEC. 7. Section 9102 of the Welfare and Institutions Code is  
12 amended to read:

13 9102. The duties and powers of the department shall be:

14 (a) To administer all programs under the Older Americans Act  
15 of 1965, as amended, and this division, including providing  
16 ongoing oversight, monitoring, and service quality evaluation to  
17 ensure that service providers are meeting standards of service  
18 performance established by the department. This shall include, but  
19 is not limited to, all of the following:

20 (1) Setting program standards and providing standard materials  
21 for training.

22 (2) Providing technical assistance to area agencies on aging,  
23 program managers, staff, and volunteers providing services.

24 (3) Development of the state plan on aging according to federal  
25 law.

26 (4) Maintain a clearinghouse of information related to the  
27 interests and needs of older individuals and provide referral  
28 services, if appropriate.

29 (5) Maintain a management information and reporting system;  
30 including a data base on service utilization patterns and  
31 demographic characteristics of the older population to be  
32 cross-classified by age, sex, race, and other information required  
33 for the planning process, and eliminate redundant and unnecessary  
34 reporting requirements.

35 (6) Encourage and support the involvement of volunteers in  
36 services to older individuals.

37 (7) Seek ways to utilize the private sector to assume greater  
38 responsibility in meeting the needs of older individuals.



1 (8) Encourage internships to be coordinated with schools of  
2 gerontology or related disciplines, including internships for older  
3 individuals.

4 (b) The department shall have primary responsibility for  
5 information received and dispersed to the area agencies on aging.

6 (c) The department shall be responsible for activities that  
7 promote the development, coordination, and utilization of resources  
8 to meet the long-term care needs of older individuals, consistent  
9 with its mission. The responsibilities shall include, but not be  
10 limited to, all of the following:

11 (1) Conduct research in the areas of alternative social and health  
12 care systems for older individuals.

13 (2) As specified in Section 9002, coordinate with agencies and  
14 departments that administer health, social, and related services for  
15 the purposes of policy development, development of care standards,  
16 consistency in application of policy, evaluation of alternative uses  
17 of available resources toward greater effectiveness in service  
18 delivery, including seeking additional federal and private dollars  
19 to support achievement of program goals, and ensure ongoing  
20 response to the identified special needs of the chronically impaired  
21 to provide support that maximizes their level of functioning.

22 (3) Monitor and evaluate programs and services administered  
23 by the department, utilizing standardized methodology.

24 (4) Develop and implement training and technical assistance  
25 programs designed to achieve program goals.

26 (5) Establish criteria for the designation, sanctioning and  
27 defunding of area agencies on aging.

28 (d) In conjunction with the management information and  
29 reporting system required under paragraph (5) of subdivision (a),  
30 beginning in the 2006 calendar year, the department shall annually  
31 submit by January 10 of each year, to the budget, fiscal, and policy  
32 committees of the Legislature, and the Legislative Analyst, all of  
33 the following information:

34 (1) The number of persons served statewide in each of the prior  
35 and current fiscal years for each state or federally funded program  
36 or service administered by the department. This information shall  
37 also be provided for each Area Agency on Aging service area.

38 (2) To the extent feasible, the number of unduplicated persons  
39 served statewide in the prior and current fiscal years for all state  
40 or federally funded programs and services administered by the

1 department. To the extent feasible, this information shall also be  
2 provided for each Area Agency on Aging service area.

3 (3) Total estimated statewide expenditures in the prior, current,  
4 and budget fiscal years for each state or federally funded program  
5 or service administered by the department. This information shall  
6 also be provided for each Area Agency on Aging service area.

7 (e) The report required by subdivision (d) shall be suspended  
8 until the 2010–11 fiscal year. In lieu of that information, the  
9 department shall submit to the budget, fiscal, and policy  
10 committees of the Legislature, and the Legislative Analyst, by  
11 March 1 of each year, copies of the program factsheets for each  
12 state and federal program administered by the department. The  
13 department shall update the information included in the program  
14 factsheets annually, before submitting them as required by this  
15 subdivision.

16 *(f) The department shall annually, beginning in the 2010*  
17 *calendar year, update the Elder Economic Security Standard Index*  
18 *for each county in the state, using the methodology developed for*  
19 *the 2008 Elder Economic Security Standard Index. The department*  
20 *shall annually, beginning in the 2010 calendar year, calculate the*  
21 *number, percentage, and demographic profile of elders living*  
22 *below the updated Elder Economic Security Standard Index for*  
23 *that year by utilizing the most recent demographic data available.*  
24 *The department shall analyze the number and percentage of elders*  
25 *living below the updated Elder Economic Security Standard Index*  
26 *for that year by county, race, ethnicity, gender, age, housing*  
27 *situation, and other relevant demographic factors.*

28 SEC. 8. Section 9400 of the Welfare and Institutions Code is  
29 amended to read:

30 9400. (a) The Legislature hereby declares and recognizes the  
31 area agencies on aging to be the local units on aging in California  
32 that are supported from an array of sources, including federal  
33 funding largely through the federal Older Americans Act (42  
34 U.S.C. Sec. 3001, et seq.), state and local government assistance,  
35 the private sector, and individual contributions for services.

36 (b) Area agencies on aging shall operate in compliance with the  
37 Older Americans Act and applicable regulations.

38 (c) Each area agency on aging shall maintain a professional  
39 staff that is supplemented by volunteers, governed by a board of  
40 directors or elected officials, and whose activities are reviewed by

1 an advisory council consisting primarily of older individuals from  
2 the community.

3 (d) Each area agency on aging shall create a plan that ~~considers~~  
4 ~~available data and population trends~~, *utilizes the Elder Economic*  
5 *Security Standard Index, specifies the costs of meeting basic needs*  
6 *for elders in each public service area, identifies which elders are*  
7 *living at or below the Elder Economic Security Standard Index*,  
8 assesses the needs for services provided under this division  
9 reflective of the community needs, identifies sources for funding  
10 those services, and develops and implements a plan for delivery  
11 of those services based on those needs. Each plan shall include  
12 developing area home- and community-based systems of care that  
13 maintain individuals in their own homes or least restrictive  
14 environment, providing better access to these services through  
15 information and referral, outreach, and transportation, and  
16 advocating for the elderly on local, state, and national levels.

17 (e) Area agencies on aging shall function as the community link  
18 at the local level for development of home- and community-based  
19 services provided under the department's programs.

20 (f) The area agencies on aging shall implement subdivision (b)  
21 of Section 9100 at the local level, with particular emphasis on  
22 coordinating with the local systems to enable individuals to live  
23 out their lives with maximum independence and dignity in their  
24 own homes and communities through the development of  
25 comprehensive and coordinated systems of home- and  
26 community-based care. Nothing in this division shall preclude  
27 local determination and designation of service coordinators other  
28 than area agencies on aging, for development and implementation  
29 of the long-term care integration pilot projects set forth in Article  
30 4.05 (commencing with Section 14139.05) of Chapter 7 of Part 3  
31 of Division 9.

32 (g) In fulfilling their mission, area agencies on aging shall build  
33 upon the resources and the commitment unique to each community  
34 and shall be guided by a 10-point description of a community-based  
35 system that shall do all of the following:

36 (1) Have a visible focal point of contact where anyone can go  
37 or call for help, information, or referral on any aging issue.

38 (2) Provide a range of service options.

1 (3) Ensure that these options are readily accessible to all older  
2 individuals, whether independent, semi-independent, or totally  
3 dependent, no matter what their income.

4 (4) Include a commitment of public, private, and voluntary  
5 resources committed to supporting the system.

6 (5) Involve collaborative decisionmaking among public, private,  
7 voluntary, religious, and fraternal organizations, as well as older  
8 individuals and consumers in the community.

9 (6) Offer special help or targeted resources for the most  
10 vulnerable older individuals, those in danger of losing their  
11 independence.

12 (7) Provide effective referral from agency to agency to ensure  
13 that information or assistance is received, no matter how or where  
14 contact is made in the community.

15 (8) Evidence sufficient flexibility to respond with appropriate  
16 individualized assistance, especially for the vulnerable older  
17 individuals.

18 (9) Have a unique character that is tailored to the specific nature  
19 of the community.

20 (10) Be directed by leaders in the community who have the  
21 respect, capacity, and authority necessary to convene all interested  
22 persons to assess needs, design solutions, track overall success,  
23 stimulate change, and plan community responses for the present  
24 and for the future.

25 SEC. 9. Section 9545 of the Welfare and Institutions Code is  
26 amended to read:

27 9545. (a) The Legislature finds and declares that the purpose  
28 of the Linkages Program shall be to provide care and case  
29 management services to frail elderly and functionally impaired  
30 adults to help prevent or delay placement in nursing facilities. For  
31 purposes of this section, “care or case management” means all of  
32 the following:

33 (1) As appropriate, ongoing care or case management to frail  
34 elderly and functionally impaired adults to help prevent or delay  
35 placement in nursing facilities.

36 (2) Client assessment, in conjunction with the development of  
37 a service plan with the participant and other appropriate persons,  
38 to provide for needs identified by the assessment.

39 (3) Authorization and arrangement for the purchase of services,  
40 or referral, with followup, to volunteer, informal, or third-party

1 payer services. Contractors shall maximize to the fullest extent  
2 possible the use of existing services resources before using program  
3 funds to purchase services for clients. Any benefits received as a  
4 result of these purchases either shall not be considered income for  
5 purposes of programs provided for under Division 9 (commencing  
6 with Section 10000) or shall not be considered an alternative  
7 resource pursuant to Section 12301.

8 (4) Service and participant monitoring to determine that the  
9 services obtained are appropriate to need, of acceptable quality,  
10 and provided in a timely manner.

11 (5) Followup with clients, including periodic contact and  
12 initiation of an interim assessment, if deemed necessary, prior to  
13 scheduled reassessment.

14 (6) Assistance to older individuals entering or returning home  
15 from nursing facilities and who need help to make the transition.

16 (7) Comprehensive and timely information, when necessary, to  
17 individuals and their families about the availability of community  
18 resources, to assist functionally impaired adults and the frail elderly  
19 to maintain the maximum independence permitted by their  
20 functional ability.

21 (8) Short-term specialized assistance, including timely  
22 one-time-only assistance in securing community resources,  
23 counseling, and the arrangement of an action plan, when there is  
24 a temporary probable threat to the ability of the frail elderly person  
25 or functionally impaired adult to remain in the most independent  
26 living arrangement permitted by his or her functional ability.

27 *(b) Area agencies on aging shall be required to annually update*  
28 *the Linkages Program intake form to include the most current*  
29 *Elder Economic Security Standard Index, as adopted by the*  
30 *department pursuant to Section 9102, in order to identify elders*  
31 *in economic need and to refer these elders to other resources and*  
32 *programs.*

33 ~~(b)~~

34 (c) Contractors of the Linkages Program shall have experience  
35 in community long-term care services and capability to serve the  
36 frail elderly and functionally impaired adults, and where applicable,  
37 ensure separateness of the programs and demonstrate protective  
38 measures to avoid conflict of interest.

39 ~~(e)~~

1     (d) Contractors of the Linkages Program shall have a systematic  
2 means of capturing and reporting all required community-based  
3 services program data.

4     ~~(d)~~

5     (e) (1) Each county shall deposit funds collected pursuant to  
6 Section 1465.5 of the Penal Code in its general fund, to be available  
7 for use only for the support of services provided under this chapter  
8 in that county, including county administrative costs not exceeding  
9 10 percent of the funds collected, except as otherwise provided in  
10 this subdivision. A county may join with other counties to establish  
11 and fund a program of services under this chapter.

12     (2) Funds utilized pursuant to this section shall not supplant, be  
13 offset against, or in any way reduce funds otherwise appropriated  
14 for the support of services provided under this chapter.